



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 20 2006

**Belk 2004 US Senate
300 Hudson Street
#3
Hoboken, New Jersey 07030**

**RE: MUR 5444
Belk 2004 US Senate and
Marcus T. Belk, in his personal
and official capacities as Treasurer**

Dear Mr. Belk:

On September 26, 2006, the Federal Election Commission found that there is reason to believe that Belk 2004 US Senate ("Committee") and Marcus T. Belk, as treasurer, violated 2 U.S.C. § 432(c) and 11 C.F.R. § 102.9(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). These findings were based on a complaint filed with the Commission and on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. §§ 437g(a)(1) and (2). The Factual and Legal Analysis, which more fully explains the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Also on September 26, 2006, the Commission authorized an audit of Belk 2004 US Senate pursuant to 2 U.S.C. § 437g(a)(2). The audit will include a review of your committee's disclosure reports for completeness and mathematical accuracy; a reconciliation of bank account records with the disclosure reports you filed; and other audit procedures as deemed necessary.

The following records will be required for the audit:

- Bank statements for all accounts including all canceled checks, deposit records, check registers, committee bank reconciliations from inception through December 31, 2004;
- Electronic files for all receipts, disbursements, outstanding payables, refunds, rebates and in-kind contributions from inception through December 31, 2004;

28044203854

- All source documents for contributions (contributor cards, lists, printouts, deposit batches, computer files, joint fundraising agreements, etc.);
- All documentation supporting other receipts, refunds, rebates and in-kind contributions;
- All documentation for loans obtained by the committee including, but not limited to, notes, loan agreements or other written agreements; collateral agreements, where applicable, along with documentation from the bank showing that the bank has perfected a security agreement in the collateral; and any other documentation that provides evidence that the loan was made in the ordinary course of business pursuant to 11 C.F.R. § 100.7(b)(11);
- All documentation, including invoices, contracts, etc., supporting disbursements;
- A copy of all printed matter, including solicitation materials used by the committee;
- Any and all records not discussed above but deemed necessary under the circumstances.

At this time, the Commission's Audit Division is prepared to commence fieldwork in connection with the audit. Accordingly, within 15 days of your receipt of this letter, please gather the above records for the Commission's review.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

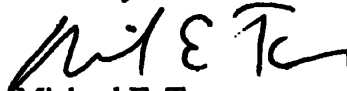
If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

28044203855

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Elena Paoli, the staff attorney assigned to this matter, at (202) 694-1548.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael E. Toner".

Michael E. Toner
Chairman

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

28044203859

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Belk 2004 US Senate and Marcus T. Belk, MUR 5444
in his personal capacity and official capacity
as Treasurer

28044203857

This matter was generated based on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. §§ 437g(a)(2). Information in the possession of the Commission indicates that in 2003, Belk registered multiple committees with the Commission, including his own candidate campaign committees for the 2004 U.S. Senate race in South Carolina and a House seat in New Jersey. Besides these two committees, the other committees registered by Belk were the National Democratic Congressional Committee, Defeat the Republican House, Defeat Bush-Cheney '04, Democratic Majority 2004, National Democratic Senatorial Committee, and National Democratic Political Committee. Some of these committee names registered by Belk could be confused with certain national party committees. Except for Belk US Senate 2004, Belk's South Carolina Senate committee, none of Belk's committees ever reported receiving contributions or making disbursements, and Belk filed termination reports for them in September and October 2003.

Information ascertained by the Commission indicates that Belk used the National Democratic Congressional Committee to defraud potential donors and cause them to make contributions to the NDCC under the mistaken belief that they were contributing to the Democratic Congressional Campaign Committee.

280474203853

In August 2003, Marcus T. Belk announced he was entering the 2004 U.S. Senate race in South Carolina. He filed a statement of organization for Belk 2004 US Senate ("the Committee") with the Commission on September 15, 2003, identifying it as his principal campaign committee. Belk never achieved ballot access in South Carolina and announced to the news media on March 29, 2004, that he was dropping out of the race.

The Committee filed disclosure reports with the Commission, starting with the October 2003 Quarterly Report. The last report it filed was the 2005 Year End Report. The reports disclose that the Committee received \$461,565 in total receipts during the 2003-2004 election cycle. The reported receipts included \$236,565 in contributions from individuals and \$225,000 in contributions from the candidate himself. The Committee's reports also disclose that it made \$461,565 in total disbursements during the 2003-2004 election cycle, and that individual refunds accounted for \$431,035 of that amount.

The Committee did not itemize any of the \$236,565 in individual contributions. The Commission sent a Request for Additional Information regarding the apparent failure to itemize contributions; however, Mr. Belk claimed in a letter to the Commission and in the media that all of the contributions he received were in amounts less than the \$200 itemization threshold set forth in 2 U.S.C. § 434(b)(3). Nevertheless, \$236,565 is a large amount of individual contributions, and it would seem unusual for none of these to meet the \$200 threshold. This fact, and the totality of the circumstances presented in this matter, raise the question of whether the Committee, in fact, received \$236,565 in individual contributions or whether the Committee failed to maintain an adequate accounting of contributions.

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires the treasurer of a political committee to keep an account of the name and address of any person who

28044203959

makes any contribution in excess of \$50, together with the date and amount of such contribution by any person, and the identification of any person who makes a contribution or contributions aggregating more than \$200 during a calendar year, together with the date and amount of any such contribution. *See* 2 U.S.C. §§ 432(c)(2) and (3) and 11 C.F.R. § 102.9. The Act also requires the treasurer of a political committee to keep an account of the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or cancelled check for each disbursement in excess of \$200. *See* 2 U.S.C. § 432(c)(5) and 11 C.F.R. § 102.9.

Based upon the foregoing, there is reason to believe Belk 2004 US Senate and Marcus T. Belk, in both his personal capacity and official capacity as treasurer, violated 2 U.S.C. § 432(c) and 11 C.F.R. § 102.9.